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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,356	01/25/2002	Brian Whitty	2774-001	2009

22208 7590 06/30/2005

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/057,356

Applicant(s)

WHITTY, BRIAN

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 22, 23 and 25 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

Claim 19 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

### *Priority*

Applicant has yet to perfect his claim for priority under 35 U.S.C. 120. MPEP 1895 sets forth the requirements to obtain benefit under 35 U.S.C. 120:

To obtain benefit under 35 U.S.C. 120 of a prior PCT application designating the U.S., the continuing U.S. national application must

(A) include an appropriate reference to the prior PCT application (either in the

application data sheet (37 CFR 1.76) or in the first sentence of the specification),

\*\*>

(B) < be copending with the prior PCT application, and

\*>

(C) < have at least one inventor in common with the prior PCT application.

See MPEP § 201.11. A U.S. national application is copending with an international application >(PCT)< if the prior international application was pending on the filing date of the subsequent U.S. national application.

If the prior application is an international application, the examiner must ascertain \*>(B)< and \*>(C)< above by either examining the national stage application file of the international application, or by examining the international application file, or requiring applicant to submit sufficient \*>evidence to prove< that the international application was

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compending with the U.S. national (35 U.S.C. 111(a)) application claiming benefit under 35 U.S.C. 120. >The evidence submitted to prove that the international application was compending with the U.S. national (35 U.S.C. 111(a)) application should include a certification from applicant that neither the international application nor the designation of the United States was withdrawn or considered to be withdrawn prior to the filing date of the U.S. national (35 U.S.C. 111(a)) application. Additionally, if the 20 month period from the priority date of the international application expired before April 1, 2002 and the U.S. national (35 U.S.C. 111(a)) application was filed later than 20 months from the priority date of the international application, the evidence should also include proof of filing a demand electing the United States within 19 months from the priority date. The proof of filing the demand may be in the form of a copy of the "Notification of Receipt of Demand by Competent International Preliminary Examining Authority" (Form PCT/IPEA/402) showing that the demand was received prior to the expiration of 19 months from the priority date, and a copy of the "Notification Concerning Elected Offices Notified of Their Election" (Form PCT/IB/332) showing the election of the United States.)< If the parent international application was not compending (i.e., abandoned or withdrawn), benefit under 35 U.S.C. 120 is not possible.

Applicant has failed to show (B) above in that a copy of form 402 has not been provided.

Applicant is required to submit sufficient evidence to prove that the international application was compending with the U.S. national (35 U.S.C. 111(a)) application claiming benefit under 35 U.S.C. 120. Review the above information and upon submitting the necessary documentation identified above, the denial of priority benefit will be reconsidered and priority granted if applicant can satisfy the above requirements.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579).

Davies (figures 1,2) teaches a leg rope connection device for connecting two portions of a broken leg rope including a housing 11 which encloses an end part of each of the two portions of a broken leg rope, and two clamping members (17,18) pivotally associated with the housing, the two clamping members being movable between a first position to enable positioning of a broken leg rope within the housing and a second position sufficiently close to the housing for compressive clamping of the two portions of broken leg rope between each of the two clamping members and the housing , whereby the two clamping members respectively associate with first and second portions of the broken leg rope in a manner such that each end part of the first and second portions of broken leg rope are retained within that the housing when subjected to typical forces applied to a leg rope when in use. The difference is that the device lacks a tool member attached to one of the clamping members. Hoover (figure 4, 5) teaches the use of a tool 80 that has a stem portion 78 having a square cross section and a handle 82 that is fully capable of transferring torque if the stem is inserted within a square cross section recess of an article to be rotated. Hoover establishes that at the time of applicant's invention it was well known in the art to provide a tool within the clamping section of the buckle. Since Hoover establishes that it is beneficial to provide a tool with a buckle, it would have been obvious to modify the buckle of the device of Davies to have a tool associated with the clamping section has taught by Hoover. In regard to claim 2, the primary reference teaches the use of two clamping members. As to claim 3, the clamping members of the primary reference are rotatable with respect to the

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housing. In regard to claim 22, the primary reference suggests at least part of an interior surface of the housing been textured 19a, 20a.

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579) as applied to claim 3 above, and further in view of Westerkamp (US 4878270).

Further modification of the connection device of Davies such that at least part of the device is manufactured from a rigid polymeric material would have been obvious in view of Westerkamp (figures 1-3, 7) teaching rope clamping structure including the housing 22 which may be made of molded plastic or a metal casting of aluminum (col. 2, lines 54-58) thereby establishing plastic as a well known equivalent to a metal such as aluminum for rope housings.

Claims 5-10, 12-16, 18 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579) as applied to claim 1 above, and further in view of Kettelman (US 848035).

Further modification of the device of Davies such that the clamping members have arms would have been obvious in view of Kettelman (figures 1-3) teaching that it is desirable to provide pivotally attached to clamping members with arms so as to provide a mechanical advantage to enhance and operators ability to provide a strong clamping force. As to claim 6, duplication of the structure of Hoover so that it is applicable to both clamping members is a duplication of parts and therefore obvious. In regard to claims 15 and 16, the tool member suggested by Hoover is inherently changeable with an alternate tool if so desired and the use of an allen key, which is hexagonal sectioned is old and well known and is the equivalent of using a square cross-section as taught by Hoover. The tool of Hoover is inherently usable by a surfer if

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so desired. In regard to claim 25 the tool member of Hoover is inherently usable on a surfboard fin retention device if the surfboard and retention device as a receiver of square cross-section. In regard to claim 13, the first and second tool members or adjacent each other on opposite sides of the housing when the first and second are members are in closed positions. As to claim 14, the primary reference in combination with Hoover suggest structure in which the clamping members and therefore of the tool members are within the length of the housing when the first and second are members are in the closed position.

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579) and Ketteman (US 848035) as applied to claim 5 above, and further in view of Westerkamp (US 4878270).

Further modification of the connection device of Davies such that at least part of the device is manufactured from a rigid polymeric material would have been obvious in view of Westerkamp (figures 1-3, 7) teaching rope clamping structure including the housing 22 which may be made of molded plastic or a metal casting of aluminum (col. 2, lines 54-58) thereby establishing plastic as a well known equivalent to a metal such as aluminum for rope housings.

Claim 11 rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579) and Ketteman (US 848035) as applied to claim 5 above, and further in view of Feyas (US 5685751).

Further modification of the connection device of Davies such that the exterior of the connection device is shaped to reduce frictional drag while moving through water would have been obvious in view of Feyas (figures 1-3) in which the connection device 12 is rounded on its

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exterior surface so as to inherently reduce frictional drag as the connection device moves through water.

Claim 23 rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Hoover (US 3256579) as applied to claim 1 above, and further in view of Feyas (US 5685751).

Further modification of the connection device of Davies such that the exterior of the connection device is shaped to reduce frictional drag while moving through water would have been obvious in view of Feyas (figures 1-3) in which the connection device 12 is rounded on its exterior surface so as to inherently reduce frictional drag as the connection device moves through water.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that the square cross-section of the key in the buckle of Hoover is not a tool useful to a surfer. This is unpersuasive because the square cross-section taught by the key of Hoover is inherently useful as a tool. Just because the key of Hoover is not useful to applicant as a tool does not mean that it would not be useful to another surfer. The key of the buckle of Hoover may well be a tool of great use to another surfer. Applicant further argues that there is no suggestion to modify the primary reference so as to utilize the tool from the buckle of Hoover. This argument is unpersuasive because Hoover clearly shows that a tool is useful in a buckle and is that it also performs a useful secondary or even primary purpose of providing added leverage in an opening and closing the clamping member. These two motivations provide ample suggestion to combine the teachings of Hoover with the primary reference. Applicant's



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argument that all the claim limitations are not shown is unpersuasive for the reasons given. Applicant also argues that the device of Ketteman has nothing to do with leading rope repair. However, the problem to be solved is analogous in that it is desirable to repair or connect to linear members together in this reference suggests the use of to camming levers with arms so as to provide a mechanical advantage. The teachings of this reference provide for a very strong connection and as it would be beneficial to have the leading rope securely fastened together, it would have been obvious to utilize the teachings of this reference.

***Allowable Subject Matter***

Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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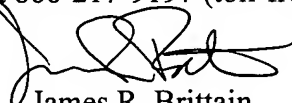
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065.

The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB